

Banking and Finance Law Daily Wrap Up, BANKING OPERATIONS—OCC proposes stress recovery planning guidelines for largest financial institutions, (Dec. 16, 2015)

By [Richard A. Roth, J.D.](#)

The Office of the Comptroller of the Currency wants all large national banks, federal savings associations, and federal branches of foreign banks to create detailed plans for how they could recover from stress events that threaten their financial and operational strength and viability. The [proposed recovery planning duties](#), which would be imposed by enforceable guidelines included in a new appendix to 12 CFR Part 30—Safety and Soundness and Standards, would apply to banks and thrifts with assets of at least \$50 billion and to smaller institutions the OCC see as highly complex or as posing a heightened risk.

According to the OCC, the financial crisis showed that many financial institutions did not have adequate plans for how to identify and recover from a stress event that affected their financial situation. The proposed guidelines would require plans for recovering from stress caused by events both outside the bank, such as market disruptions, and events inside the bank, such as an employee's fraud or inappropriate trading activities.

Triggers. Recovery plans should start with triggers, which the OCC defines as either qualitative or quantitative indicators of risk or severe stress that always should be brought to the attention of management or the board of directors for action. The breach of a trigger should result in notice to the proper individuals, and that notice should include the information those persons need to respond appropriately.

“The nature of the trigger informs the nature of the response,” according to the proposal. Depending on the trigger, an appropriate response could be increased monitoring, a single specific recovery option, or a combination of actions.

Recovery options. Each financial institution's recovery plan would need to include “a wide range of credible options” that can be implemented depending on the trigger and the institution's situation. The proposal makes clear that the recovery options should not include liquidation or resolution and should not assume that there will be any government bail-out.

Plans should be specific, identifying the decision-making process for each option and the persons who will be critical to that process. Suggested options include:

- conserving or restoring liquidity or capital;

- selling assets or lines of business;
- reducing the institution's risk profile;
- restructuring liabilities; and
- implementing emergency protocols.

Plan elements. Recovery plans would need to describe the financial institution's structure and relationships with third parties. Each plan would need to consider how any of the recovery options would affect the bank and specify how the occurrence of a trigger would be escalated.

The plan also would need to be integrated with the bank's other corporate governance and risk management functions. In fact, the OCC believes that existing risk management planning can be used in creating the proposed recovery plans.

Comments on the proposed guidelines must be submitted by Feb. 16, 2016.

© 2016 CCH Incorporated. All rights reserved.